

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

SHANE A. KITTERMAN,

Petitioner,

vs.

Case No. 18–cv–1320–DRH

JEFFREY DENNISON

Respondent.

MEMORANDUM AND ORDER

HERNDON, District Judge:

Petitioner filed this suit on June 25, 2018. (Doc. 1). The matter is before the Court on Petitioner’s Motion to Voluntarily Dismiss, filed on July 2, 2018. (Doc. 3). Petitioner alleges that he is now on mandatory supervised release in the custody of the Illinois Prisoner Review Board. *Id.* For reasons explained below, Petitioner’s Motion is **GRANTED**. (Doc. 3).

The rules governing habeas proceedings do not include a rule permitting voluntary dismissal. However, Fed. R. Civ. P. 81(a)(4) permits a court to apply the Federal Rules of Civil Procedure to habeas cases where there is not a conflicting rule or statute. Federal Rule of Civil Procedure 41(a) permits a plaintiff to dismiss an action without a court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. Respondent has not been served in this action, therefore Petitioner is

within the proper time frame to file a Notice of Dismissal. Petitioner has specified that the dismissal shall be without prejudice.

Disposition

IT IS HEREBY ORDERED that Petitioner's Motion to Dismiss is **GRANTED**. (Doc. 3). This case is **DISMISSED without prejudice**. The Clerk of Court is **DIRECTED** to enter judgment and close the case. Petitioner's filing fee remains due and owing.

IT IS SO ORDERED.

  Judge Herndon
2018.07.03
12:56:17 -05'00'
United States District Judge